



## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 64

[CG Docket No. 17-59; FCC 21-126; FRS 63954]

#### Advanced Methods to Target and Eliminate Unlawful Robocalls - Petition for

#### Reconsideration and Request for Clarification of USTelecom - The Broadband Association

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** In this document, the Federal Communications Commission (Commission) reconsiders and clarifies certain aspects of the transparency and redress requirements previously adopted to ensure that voice service providers continue to block unwanted and illegal calls, while also protecting the interests of legitimate callers and consumers, also, granting a waiver to allow voice service providers terminating a call on an internet protocol (IP) network to use Session Initiation Protocol (SIP).

**DATES:** This rule is effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER], except for the addition of § 64.1200(k)(10), which is delayed indefinitely. The Commission will publish a document in the Federal Register announcing the effective date of this amendment. Section 64.1200(k)(9)(i) is waived from January 1, 2022 until [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**FOR FURTHER INFORMATION CONTACT:** For additional information on this proceeding, contact Jerusha Burnett, [Jerusha.Burnett@fcc.gov](mailto:Jerusha.Burnett@fcc.gov) or (202) 418-0526, of the Consumer and Governmental Affairs Bureau, Consumer Policy Division.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Order on Reconsideration and Waiver Order, FCC 21-126, CG Docket No. 17-59, adopted on December 10, 2021, and released on December 14, 2021. The full text of this document is available online

at <https://www.fcc.gov/document/fcc-adopts-robocall-blocking-reconsideration-order>. To request this document in accessible formats for people with disabilities (*e.g.*, Braille, large print, electronic files, audio format) or to request reasonable accommodations (*e.g.*, accessible format documents, sign language interpreters, CART), send an email to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the FCC's Consumer and Governmental Affairs Bureau at (202) 418-0530 (voice).

### **Final Paperwork Reduction Act of 1995 Analysis**

The Order on Reconsideration contains a non-substantive modification to an approved information collection subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13. This modification will be submitted to the Office of Management and Budget (OMB) for review pursuant to OMB's process for non-substantive changes. The Order on Reconsideration, therefore, does not contain any new or modified information collection burden for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002, Pub. L. 107-198, *see* 44 U.S.C. 3506(c)(4). The Waiver Order does not contain any new or modified information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104-13.

### **Congressional Review Act**

The Commission sent a copy of document FCC 21-126 to Congress and the Government Accountability Office pursuant to the Congressional Review Act, 5 U.S.C. 801(a)(1)(A).

### **Synopsis**

1. In the Order on Reconsideration, the Commission reconsiders and clarifies certain aspects of the transparency and redress requirements previously adopted in the *Call Blocking Fourth Report and Order* to ensure that voice service providers continue to block unwanted and illegal calls, while also protecting the interests of legitimate callers and consumers. In the Waiver Order, the Commission grants a waiver to allow voice service providers terminating a call on an IP network to use SIP Code 603 in addition to SIP Code 607 or 608 from January 1, 2022 until the effective date of the amendments to § 64.1200(k)(9) of the Commission's rules.

2. The Commission previously permitted voice service providers to block certain categories of calls that are highly likely to be illegal without consumer consent, e.g., calls purporting to be from invalid, unallocated, or unused numbers, and calls likely to be unwanted based on reasonable analytics designed to identify unwanted calls. The Commission adopted a safe harbor from liability under the Communications Act and the Commission's rules for erroneous call blocking, in order to protect voice service providers from liability for unintended blocking of wanted calls where terminating voice service providers block calls thought to be illegal or unwanted based on reasonable analytics that include caller ID authentication information and where the consumer is given the opportunity to opt out, if this blocking is managed with human oversight and network monitoring sufficient to ensure that blocking is working as intended. In addition, voice service providers must take steps to stop illegal traffic on their networks and assist the Commission, law enforcement, and the Traceback Consortium in tracking down callers that make such calls.

3. As part of the call blocking and safe harbor rules, the Commission had required voice service providers blocking calls to provide immediate notification to callers of such blocking through the use of specified SIP Codes. SIP is the signaling protocol used in IP networks enabling calls to be made and received by end-users and includes a SIP request and a SIP response. The SIP response is a three-digit code that indicates the status of the SIP request. The Commission specified that terminating voice service providers that block calls on an IP network return SIP Code 607 or 608, as appropriate. SIP Code 607 is used when the called party indicates a call is unwanted. SIP Code 608 indicates a call was rejected by an intermediary, such as an analytics engine, as opposed to by the called party. Because SIP Codes are not available on non-IP networks, the Commission required use of ISUP code 21 for calls blocked on a TDM network.

4. The Commission further required all voice service providers in the call path to transmit the appropriate SIP Codes to the origination point of the call and set a deadline of

January 1, 2022 for voice service providers to comply with the immediate notification requirements. The Commission required that any terminating voice service provider that blocks calls on an opt-in or opt-out basis provide, on the request of the subscriber to a particular number, a list of all calls intended for that number that the voice service provider or its designee has blocked.

5. In the Order on Reconsideration, the Commission granted, in part, the petition for reconsideration filed by USTelecom and stated that allowing terminating voice service providers to utilize SIP Code 603 during the finalization of and transition to SIP Codes 607 and 608 strikes a reasonable balance between ensuring that voice service providers have the technical ability to provide immediate notification to callers and ensuring that callers have a uniform means of receiving such notifications. The Commission amended the immediate notification requirements to allow terminating voice service providers operating IP networks to use SIP Codes 603, 607, or 608 to comply with the rule. The Commission granted USTelecom's request to allow use of SIP Code 603 as an alternative to SIP Codes 607 and 608 and denied USTelecom's broader request for general flexibility with regard to providing blocking notification.

6. The Commission also granted USTelecom's request to confirm that immediate notification to callers is necessary only for calls blocked pursuant to any analytics programs. The Commission stated that a voice service provider must comply with the immediate notification requirement whenever it blocks calls based on analytics, regardless of whether such blocking is done with consumer opt in or opt out, or at the network level without consumer consent.

7. The Commission denied USTelecom's request to exempt voice service providers from the immediate notification requirements if they are temporarily unable to for technical reasons and concluded that under such circumstances they may seek a waiver from the Commission and such waivers will be evaluated on a case-by-case basis.

8. The Commission also clarified that the requirement that any terminating voice service provider that blocks on an opt-in or opt-out basis must provide, on the request of the subscriber to a particular number, a list of calls intended for that number that the voice service provider or its designee has blocked applies only to blocking performed pursuant to opt-in or opt-out analytics programs, rather than to subscriber-initiated features such as white lists, black lists, Do Not Disturb, call rejection, and line-level blocking. The Commission explained that because the purpose of the blocked-calls-list requirement is to ensure effective redress to consumers, there is no reason to apply such a requirement to situations where providers are not required to allow consumers to opt out and this redress requirement is, thus, inapplicable. As a result, the blocked-calls-list requirement does not apply to such blocking programs.

9. The Commission denied USTelecom's request to confirm that originating voice service providers can determine with their enterprise customers how those customers will be notified about blocking of their calls by downstream providers and that notifications to enterprise customers are not covered by the Commission's notification requirement. All voice service providers in the call path are required to transmit the appropriate response codes to the origination point of the call. The Commission clarified that an originating voice service provider must transmit the appropriate response code to the origination point of the call, which means that the code must be made available to callers that are able to receive it. The Commission stated that the focus of section 10(b) of the TRACED Act, codified at 47 U.S.C. 227(j), and the Commission's rules implementing this provision, is on transparency for the caller, not transparency for an originating provider. Thus, originating voice service providers must, at a minimum, transmit the appropriate response code to the caller.

10. In the Waiver Order, the Commission explained that, because the amendment to the immediate notification requirement in the Order on Reconsideration may not be published in the Federal Register before January 1, 2022, the Commission grants, pursuant to section 1.3 of the Commission's rules, a waiver of § 64.1200(k)(9)(i) to allow voice service providers

terminating a call on an IP network to use SIP Code 603, 607, or 608 from January 1, 2022 until the effective date of the amendments to section 64.1200(k)(9) of the Commission's rules adopted in the Order on Reconsideration.

11. The Commission found that good cause exists to allow voice service providers to use SIP Code 603 beginning on January 1, 2022. Granting this waiver is necessary to avoid a situation where a terminating voice service provider on an IP network may be unable to return SIP Code 607 or 608 beginning on January 1, 2022 (for the reasons discussed in the Order on Reconsideration) and thus, absent a waiver, could choose not to block calls rather than to block calls in a manner that does not comply with § 64.1200(k)(9)(i) of the Commission's rules.

### **Final Regulatory Flexibility Analysis**

12. As required by the Regulatory Flexibility Act of 1980 (RFA), as amended, an Initial Regulatory Flexibility Analysis (IRFA) was incorporated into the *Call Blocking Fourth Report and Order*. The Commission sought written public comment on the proposals in the NPRM, including comment on the IRFA. This Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.

13. *Need for, and Objectives of, the Order.* The Order on Reconsideration reconsiders and clarifies certain aspects of the transparency and redress requirements adopted in the *Call Blocking Fourth Report and Order* to ensure that voice service providers continue to block unwanted and illegal calls, while also protecting the interests of legitimate callers and consumers. The rules adopted in the Order on Reconsideration help clarify certain aspects of our rules while promoting greater flexibility for voice service providers in meeting the obligations set forth in the *Call Blocking Fourth Report and Order*.

14. *Summary of Significant Issues Raised by Public Comments in Response to the IRFA.* The Commission responded to all significant issues raised in response to the IRFA in the *Call Blocking Fourth Report and Order*.

15. *Response to Comments by the Chief Counsel for Advocacy of the Small Business Administration.* Pursuant to the Small Business Jobs Act of 2010, which amended the RFA, the Commission is required to respond to any comments filed by the Chief Counsel for Advocacy of the Small Business Administration (SBA), and to provide a detailed statement of any change made to the proposed rules as a result of those comments. The Chief Counsel did not file any comments in response to the proposed rules in this proceeding.

16. *Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements.* This Order on Reconsideration does not adopt any new reporting, recordkeeping, or other compliance requirements for small entities.

17. *Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered.* The RFA requires an agency to describe any significant alternatives that it has considered in reaching its approach, which may include the following four alternatives (among others): (1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities. The Order on Reconsideration relieves a burden on small voice service providers by allowing such providers more flexibility in meeting the immediate notification requirements adopted in the *Call Blocking Fourth Report and Order*.

#### **List of Subjects in 47 CFR Part 64**

Communications common carriers, Reporting and recordkeeping requirements,  
Telecommunications, Telephone.  
Federal Communications Commission.

**Katura Jackson,**  
*Federal Register Liaison Officer.*

## **Final Rules**

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 part 64 as follows:

### **PART 64 – MISCELLANEOUS RULES RELATING TO COMMON CARRIERS**

1. The authority citation for part 64 continues to read as follows:

**Authority:** 47 U.S.C. 151, 152, 154, 201, 202, 217, 218, 220, 222, 225, 226, 227, 227b, 228, 251(a), 251(e), 254(k), 262, 276, 403(b)(2)(B), (c), 616, 620, 1401-1473, unless otherwise noted; Pub. L. 115-141, Div. P, sec. 503, 132 Stat. 348, 1091.

2. Effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER], amend § 64.1200 by revising paragraphs (k)(9) introductory text and (k)(9)(i) to read as follows:

#### **§ 64.1200 Delivery restrictions.**

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(k) \* \* \*

(9) Any terminating provider that blocks calls based on any analytics program, either itself or through a third-party blocking service, must immediately return, and all voice service providers in the call path must transmit, an appropriate response code to the origination point of the call. For purposes of this rule, an appropriate response code is:

(i) In the case of a call terminating on an IP network, the use of Session Initiation Protocol (SIP) code 603, 607, or 608;

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3. Delayed indefinitely, further amend § 64.1200 by revising paragraph (k)(10) to read as follows:

#### **§ 64.1200 Delivery restrictions.**

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(k) \*\*\*

(10) Any terminating provider that blocks calls pursuant to an opt-out or opt-in analytics program, either itself or through a third-party blocking service, must provide, at the request of the subscriber to a number, at no additional charge and within 3 business days of such a request, a list of calls to that number, including the date and time of the call and the calling number, that the terminating provider or its designee blocked pursuant to such analytics program within the 28 days prior to the request.

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